

### REMARKS

This is in response to the Office Action dated December 2, 2004, and the documents cited therewith.

Claims 1, 11 and 12 are amended, no claims are canceled, and no claims are added; as a result, claims 1-12 remain pending in this application.

The amendments to the specification and the claims are directed to correcting the spelling errors noted in the Office Action. It is believed that no new matter is introduced by the amendments. The amendments of claims 1, 11 and 12 are not tailored to overcome particular art.

Applicant respectfully requests entry of the amendments and withdrawal of the claim objections.

### Information Disclosure Statement

Applicant herewith includes an Information Disclosure Statement for the documents listed in the specification. Applicant respectfully requests consideration of the cited documents and return of an initialed form to indicate same.

### Double Patenting

The Examiner has stated that should claim 11 be found allowable, claim 12 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof.

Applicant respectfully traverse the use of the phrase *double patenting* in the Office Action. As to the assertion concerning substantially duplicative claims, Applicant notes that pursuant to M.P.E.P. § 706.03(k), a mere difference in scope between claims has been held to be enough. Applicant submits that the scope of claim 11 differs from that of claim 12. Here, for example, Applicant notes that claim 11 recites a detection assembly having the enumerated elements and appears to be silent as to particular elements of the receiving amplifier. In contrast, claim 12 recites a receiving amplifier having the enumerated elements and appears to be silent as to particular elements of the detection assembly. For at least this reason, it appears that the scope of claim 11 differs from that of claim 12.

If the Office Action is asserting a double patenting rejection, Applicant respectfully requests clarification and a full opportunity with which to respond.

§103 Rejection of the Claims

*Halek, Farmer and Sakano*

Claims 1 and 3-12 were rejected under 35 USC § 103(a) as being unpatentable over Halek et al. (US 4,007,420) in view of Farmer et al. (US 5,458,142) and further in view of Sakano (US 4,968,975).

Applicant respectfully traverses the rejection of claims 1 and 3-12 and submits that *prima facie* obviousness has not been established. Applicant submits that the proposed combination of Halek, Farmer and Sakano does not teach or fairly suggest the elements recited in the claims. For example, Applicant is unable to find, in the proposed combination, a teaching or disclosure of a transmitting oscillator or a transmitting coil. In addition, the Office Action appears silent as to a transmitting oscillator or transmitting coil in the proposed combination.

Furthermore, Applicant notes that the cited documents operate according to different principles of operation and thus, are not properly combinable in the manner proposed. For example, Halek refers to "a planar conductor" and "lifting the paw from the surface breaks the contact between the bus bars." In addition, Farmer refers explicitly to "a magnetic field emanating from an organism." In contrast, the claimed subject matter refers to "an electromagnetic transmitter coil coupled to the oscillator for generating an electromagnetic field" and "an electromagnetic field that penetrates the metal object." Thus, it appears that Halek and Farmer operate according to different principles and are thus not properly combinable.

The Office Action assertion on page 3 concerning Halek and spatial displacement within the electromagnetic field appears to be unsupported. Applicant is unable to find, in Halek, a disclosure concerning either "spatial displacement" or "an electromagnetic field." Withdrawal of the assertion is respectfully requested.

The Office Action assertion on page 3 concerning Farmer and detecting the magnetic fields emanating from a metal object or sensor appears to be unsupported. Applicant is unable to find, in Halek, a disclosure concerning "magnetic fields emanating from a metal object or sensor." Withdrawal of the assertion is respectfully requested.

Accordingly, Applicant respectfully submits that the asserted motivation concerning the proposed combination of Halek and Farmer is improper. Indeed, Applicant submits that Halek

and Farmer teach away from combining in the manner proposed. Halek relates to a switch function whereas Farmer is concerned with "a sensor designed for monitoring extremely low level, low frequency electromagnetic signals is used to detect emissions from the organism under test." Applicant submits that the switching function of Halek would interfere with the low signal levels of Farmer and that one of ordinary skill in the art would not be inclined to combine the documents in the manner proposed.

In addition, even if Halek and Farmer could properly be combined, Applicant submits that the addition of Sakano is not proper. The Office Action assertion concerning the motivation to combine Sakano with Halek and Farmer refers to "the electromagnetic field generated by the coil assembly." Applicant is unable to find, in any of the cited documents, a teaching or disclosure concerning an electromagnetic field generated by a coil assembly.

Applicant reserves the right to object in future correspondence to other assertions appearing in the Office Action.

For at least these reasons, it appears that *prima facie* obviousness has not been established. Reconsideration and allowance of claims 1 and 3-12 is respectfully requested.

#### *Halek, Ko and Sakano*

Claims 1, 2, 7-12 were rejected under 35 USC § 103(a) as being unpatentable over Halek et al. (US 4,007,420) in view of Ko et al. (US 4,688,580) and further in view of Sakano (US 4,968,975).

Applicant respectfully traverses the rejection of claims 1, 2 and 7-12 and submits that *prima facie* obviousness has not been established. Applicant submits that the proposed combination of Halek, Ko and Sakano does not teach or fairly suggest the elements recited in the claims. In addition to the remarks above concerning Halek and Sakano, Applicant further submits that the Ko does not cure the shortcomings in the rejection. For example, Ko refers to an impedance measurement whereas Halek describes a switch function. Applicant submits that Halek and Ko operate according to different principles and thus are not properly combinable. In addition, Applicant is unable to find, in the cited documents, a teaching of an electromagnetic transmitter coil and an electromagnetic receiving coil, as recited in claim 1. The Office Action does not appear to identify such a teaching.

Applicant further submits that the rejection is improper in that pages 6 and 7 of the Office Action refers to an asserted teaching of Farmer whereas the stated grounds for rejection appearing on page 5 (item 7) is silent as to Farmer. Clarification or withdrawal of the rejection is respectfully requested.

For at least these reasons, it appears that *prima facie* obviousness has not been established. Reconsideration and allowance of claims 1, 2 and 7-12 is respectfully requested.

Conclusion

Applicant respectfully submits that the pending claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6911 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

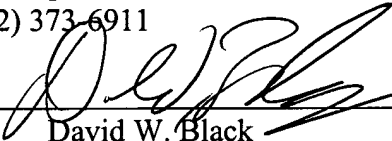
Respectfully submitted,

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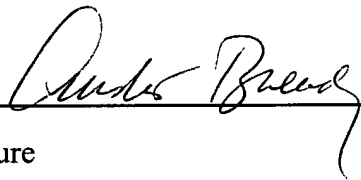
Date March 31, 2005

By   
David W. Black  
Reg. No. 42,331

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 31 day of March, 2005.

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